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RUEKJCS/SECDEF WASHDC IMMEDIATE

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SUBJECT: MARINE CASE: VERDICT PLANNED FOR NOVEMBER 27

REF: MANILA 4176 AND PREVIOUS

¶1. The Prosecution announced in a brief hearing on October 5 that it will not after all present rebuttal evidence before the court in the case of the four Marines accused of raping a Filipino woman. At the hearing, Judge Benjamin Pozon gave the Prosecution and Defense 30 days to file Memoranda of Evidence. There will be no oral summations. He also announced that he planned to render his verdict on November 27. (Comment: It is possible that this date could shift until later, i.e., if lawyers for either the prosecution or defense seek extensions on the submission of their memoranda. End comment)

¶2. This latest development renders unnecessary the Embassy's request (ref a) for Department's concurrence in allowing Naval Criminal Investigative Service (NCIS) witnesses Guy Papageorge and Tony Ramos to testify in the Prosecution's rebuttal case on October 5 and 6.

¶3. Tensions between the complainant and the chief prosecutor remain high. According to press reports, the family of the complainant submitted an affidavit to the Department of Justice claiming that Chief Prosecutor Emelie de los Santos had pushed for an out of court settlement in the case as early as July 2006. De los Santos allegedly responded: "They can easily weave together any story, but they still need to substantiate it."

¶4. In a television interview with Lei Alvez of GMA-7 that aired on October 4 and 5, LCpl Daniel Smith denied any settlement talks originated from the Defense, saying "even if there was an attempt to settle, I wouldn't want to because this is my life and I'm being accused of what I feel is the worst thing anybody can be accused of... I would like my name to be cleared." In the same TV interview, Staff Sgt. Carpentier clarified his direct testimony regarding his opinion that the complainant was a "professional," saying, "the statement that I made was in the context of being asked my impression of her behavior that night. And based on my observation... that was the conclusion that I came to." Portions of this television interview were also carried widely in Philippine print media.

¶5. The Defense had rested on September 25, after calling only six witnesses: the four accused Marines themselves; another Marine and friend of the complainant, LCpl Justin Bamberger; and Defense medical expert Dr. Teresita Sanchez.

¶6. With testimony complete, we expect increased attention to possible verdicts. Embodiments at all levels will decline to speculate publicly or privately on the verdict or its possible aftermath, while continuing to underscore the presumption of innocence of the accused. Current public affairs talking points on this case are:

- This has been an emotional and difficult case for everyone involved.
- It is the principle of Philippine and American law that anyone accused of a crime is presumed innocent until proven guilty. The U.S. is committed to seeing that justice is served, through a fair and impartial process that can provide for a just outcome.
- The U.S. has cooperated with Philippine authorities in accordance with the Visiting Forces Agreement since day one. The case is being tried by a Philippine judge under Philippine jurisdiction.
- It would be inappropriate for the United States to speculate on the verdict that the Philippine judge may render.

17. Mission continues to provide security, citizen services, and other support to the defendants. Personnel from III MEF, JUSMAG, the Regional Security Office (RSO), and the Consular Section attended all court sessions. RSO was consistently pleased with the extent and quality of security support provided by the mayor's office and police department. The Consular Section has responded to family member inquiries. Embassy continues to provide access to some fitness and sports facilities on the Chancery grounds for the four Marines, as well as to respond favorably to many of their requests to contribute services on an as-needed basis (painting, clean-up, etc.), also within Chancery grounds.

KENNEY